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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,968	07/23/2001	Brigitte Benage	0036-PA	2557

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EXAMINER

NGUYEN, TAM M

ART UNIT	PAPER NUMBER
1764	

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/910,968

Applicant(s)

BENAGE ET AL.

Examiner

Tam M. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,8,9 and 17-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,8,9 and 17-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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DETAILED ACTION]***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 16, 2004 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any

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evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, 8, 9 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winter et al. (5,545,786) in view of Higgins et al. (4,033,829).

Winter discloses a method for inhibiting premature polymerization of vinyl aromatic monomers. The monomers are distilled in the presence of nitroxyl inhibitors (e.g., bis(1-oxyl-2,2,6,6-tetramethylpiperidin-4-yl)adipate) at a temperature of from 50 to 150° C and under reduced pressure. (See col. 2, lines 7-10, 66-67; col. 3, lines 1-63; col. 4, lines 5-7, 36-37)

Higgins discloses a process for production/purification of an unsaturated monomer feedstock by contacting the feedstock with inhibitors in a distillation/separation zone to produce a product stream containing the inhibitor and the unsaturated monomers which is then recycled back to the distillation/separation zone. Higgins also discloses that the process is operated on either a continuous or batch basis at an overhead pressure of the distillation column of 414 mm Hg and the product stream contains by-product impurities such as polymers. (See abstract; col. 1, lines 46-64; col. 3, line 11 through col. 6, line 66)

Regarding claim 1, Winter does not specifically disclose that the distillation column is operated at a temperature no higher than about 110° C. However, Winter discloses that the distillation column is operated at a temperature of from 50-150° C. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the process of Winter by operating the distillation column at a temperature no higher

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than 110° C because one of skill in the art would operate the column at any temperature from 50-150° C including less than 110° C.

Regarding claim 1, Winter does not disclose step of recycling the inhibitor to the distillation column, However, Higgins discloses a process for production/purification of an unsaturated monomer wherein the inhibitor is recycled back to the distillation column (see the Figure). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the process of Winter by recycling the inhibitor back to the distillation column because the recycling step would cut down to the cost of fresh inhibitor.

Regarding claim 18, Winter does not specifically disclose that the inhibitor is a blend of two nitroxyls. However, each of the nitroxyl-containing inhibitors of Winter has an equivalent function. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the process of Winter by using a blend of two nitroxyls because it would be expected that the mixture of the two nitroxyls would have similar results as a single nitroxyl inhibitor.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam M. Nguyen whose telephone number is (571) 272-1452. The examiner can normally be reached on Monday through Thursday.

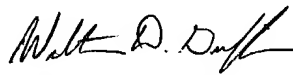
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tam M. Nguyen
Examiner
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TN



Walter D. Griffin
Primary Examiner